



May 3, 2023

Re: Health and Human Services Conference Committee S.F. 2995

Dear Members of the Conference Committee,

True North Legal is a non-profit legal organization that advocates for life, family, and religious freedom on behalf of all Minnesotans. We offer the following high-level analysis regarding S.F. 2995.

Despite significant concerns from Minnesota citizens and legislators across the state, the remaining abortion provisions in this bill create a “how-to” manual for one of the most expansive abortion regimes in the country. Although the legislature created a fundamental right to abortion by passing H.F. 1 and S.F. 1, it is not prohibited from ensuring that legislation includes proper guardrails necessary to maintain health and safety protections for Minnesota women and young girls seeking an abortion.

Moreover, nearly 70% of Minnesotans have repeatedly expressed opposition to the radical overhaul of nearly all Minnesota’s current laws regulating abortion¹, including provisions in S.F. 70 and H.F. 91. S.F. 2995 maintains many of the same provisions in those bills for possible inclusion in the omnibus bill. Significant concerns regarding S.F. 2995 as drafted include the following: 1) language that amends the “Infants Born Alive Protection Act”, **including language that explicitly protects infants born alive that survive an abortion**²; 2) the elimination of nearly all health and safety protections for women and young girls seeking an abortion in Minnesota, such as informed consent, which provides critical information to women and girls prior to

¹ According to recent poll numbers regarding Minnesotans attitude towards abortion, only 30% of Minnesotans, according to the most favorable polling, support abortion without restrictions. See <https://kstp.com/kstp-news/top-news/kstp-surveyusa-poll-abortion-issue-could-influence-voters-on-both-sides> (accessed May 2, 2023).

² S.F. 2995 amends and removes critical language in Minn. Stat. § 145.423, known as the “Infants Born Alive Protection Act” which simply and responsibly requires medical providers to ensure that any preborn child is provided critical medical care in a life and death situation, with proper oversight being assured through the reporting mechanism in the statute. Quite astoundingly, under S.F. 2995, if a preborn child survives an abortion, the doctor providing the abortion no longer has an explicit legal duty expressly stated in statute to provide life saving measures for that child (who should be considered his/her patient) or report the child’s survival. As amended, the doctor must simply provide “care” for the infant born alive, whereas “care” is undefined. Under current statute the physician’s duty is clear, but that language has been removed as amended in S.F. 2995. Arguably, if *S.F. 2995 becomes law, Minnesota cattle, pet horses, cats, dogs, birds, reptiles, and host of other animals in Minnesota will enjoy more legal protections than Minnesota’s vulnerable preborn children*. That the legal penalties for animal cruelty in Minnesota range from misdemeanor up to felony, while there is no criminal penalty for leaving a preborn child to die on a cold metal table is incomprehensible. See Minn. Stat. §343.21-22; Minn. Stat. § 343.31; Minn. Stat. § 346.35 - 346.44; Minn. Stat. § 346.57.



obtaining an abortion³, who can perform an abortion (S.F. 2995 repeals and thus removes the physician only law), where an abortion can be performed (S.F. 2995 repeals and thus removes the hospital requirement), and ensuring adequate time to make life altering decisions such as obtaining an abortion (S.F. 2995 repeals and thus removes adequate waiting periods); 3) significant changes to the statutes governing Minnesota’s Medical Assistance program regarding abortions in that taxpayers will now incur the cost of abortion on demand, something opposed by a majority of Americans⁴, resulting in an increased number of abortions at an increased cost to the state and Minnesotans; 4) the repeal and thus removal of reporting requirements for women and young girls who have obtained an abortion⁵ as well as omissions of critical medical care for infants born alive—this, despite the recent exposure of the Minnesota Department of Health’s report of Induced Abortions in Minnesota, which reported that five infants were born alive during unsuccessful abortions. It is suspected that at least two infants were denied proper medical care under the current statute⁶; and 5) the repeal and thus removal of Positive Abortion Alternatives which provides funding for nonprofit organizations and women’s clinics that serve Minnesota women, children, and babies with basic needs such as clothing, diapers, and infant baby supplies, as well as free maternal and prenatal medical services and postpartum counseling.

As we shared in prior testimony, removal and repeal of these consumer protection laws is far beyond any interpretation of *Doe v. Gomez*—it cannot be stated that the Court’s interpretation of the constitutional right to abortion in Minnesota necessarily implies that all other health and safety regulations regarding abortion are unconstitutional.⁷ Moreover, reliance on the Minnesota District Court decision *Doe v. Minnesota* is premature as the case is still in active litigation.

³ *Immediate Physical Complications of Induced Abortions*, https://lozierinstitute.org/immediate-physical-complications-of-induced-abortion/#_ftn2 (accessed May 2, 2023); *Statement on Abortion Pill Lawsuit Filed by Alliance Defending Freedom*, <https://lozierinstitute.org/lozier-institute-statement-on-abortion-pill-lawsuit-filed-by-alliance-defending-freedom/> (accessed May 2, 2023).

⁴ <https://www.kofc.org/en/news-room/polls/american-abortion-opinions-remain-consistent.html> (accessed May 2, 2023).

⁵ Since recent legislation created a fundamental right to abortion in Minnesota without gestational limits, it is imperative for the state to require abortion reporting especially for complications and abortion survivors since the risk to women and risk that the abortion will fail raises dramatically the later in pregnancy the abortion occurs. Further, state level reporting to the CDC helps state policy makers to stay informed about the issue of abortion taking place in their state. While there are no national reporting requirements in the United States, only three states do not submit voluntary abortion numbers (California, Maryland, and New Hampshire). Even D.C. and New York City voluntarily report specific abortion numbers to the CDC. Under the proposed legislation Minnesota will be an outlier. *Abortion Surveillance — United States, 2020 | MMWR (cdc.gov)* (accessed May 2, 2023).

⁶ <https://www.health.state.mn.us/data/mchs/pubs/abrpt/docs/2021abrpt.pdf>; *Minnesota Report Reveals Five Babies Born Alive After Abortion in 2021* <https://www.liveaction.org/news/minnesota-babies-born-alive-abortion/> (accessed May 2, 2023).

⁷ *Doe v. Gomez*, 542 N.W. 2d 17 (Minn. 1995).



As a result of *Roe* and *Casey*, we have had nearly fifty years to observe the abortion industry and a catalogue of studies indicating harms resulting from abortion.⁸ In previous testimony we further explained how unfettered access to abortion, at least, bears some relationship to deleterious social conditions across the country and unquestionably in Minnesota. As drafted, S.F. 2995's access to abortion without any guardrails neglects the legislature's responsibility to regulate the abortion industry with common-sense consumer protection and ignores Minnesota's fundamental interest in protecting preborn children, women, and young girls.⁹ The abortion provisions in S.F. 2995 will cause more harm than the good that proponents of this bill propose to remedy.¹⁰

Renee Carlson
General Counsel, True North Legal
rcarlson@truenorthlegal.mn.org

⁸ Brief for Advancing American Freedom, et. al. as Amicus Curiae Supporting Petitioners, *Dobbs v. Jackson Women's Health Org.*, 141 S. Ct. 2619 (2021) (19-1392).

⁹ *supra* note 1 ("only 30% of Minnesotans, according to the most favorable polling, support abortion without restrictions").

¹⁰ Unfettered access to abortion bears significant correlation with deleterious societal impact on many facets of life, including the destabilization of the family. See George A. Akerlof, Janet L. Yellen & Michael L. Katz, *An Analysis of Out-of-Wedlock Childbearing in the United States*, 111 Q. J. ECON. 277, 281 (1996) ("By making the birth of the child the physical choice of the mother, the sexual revolution has made marriage and child support a social choice of the father."); see also Helen Alvaré, *Abortion, Sexual Markets and the Law in PERSONS, MORAL WORTH AND EMBRYOS* 261 (Steven Napier ed., 2011).